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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/854,777	05/14/2001	Edward O. Clapper	INTL-0565-US (P11336)	8168
7590	12/07/2005		EXAMINER	
Timothy N. Trop TROP, PRUNER & HU, P.C. 8554 KATY FWY, STE 100 HOUSTON, TX 77024-1805			PIZARRO, RICARDO M	
			ART UNIT	PAPER NUMBER
			2662	

DATE MAILED: 12/07/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

✓

<b>Office Action Summary</b>	<b>Application No.</b>		<b>Applicant(s)</b>	
	09/854,777		CLAPPER, EDWARD O.	
	<b>Examiner</b>		<b>Art Unit</b>	
	Ricardo Pizarro		2661	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 8/18/05.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-30 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-30 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Claim Rejections - 35 USC § 103*

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

1. Claims 1-5, 7-14 and 17-30 are rejected under 35 U.S.C. 103(a) as being unpatentable over US patent No. 6,129,276 (Jelen) in view of US patent No. 5,877,675 (Rebstock)

Regarding claim 1 Jelen discloses a Shopping cart mounted portable data device, comprising wirelessly linking a plurality of shopping carts ( shopping carts 18 within retail facility) within a retail facility ( retail store in Fig. 1, col 2 line 51) through a local area network ( LAN 88 in Fig. 1) based in the retail facility; and enabling the carts to exchange information through said network ( wireless LAN 88 uses a wireless link with shopping carts within retail facility, col 4 line 13 ).

Regarding claim 11, an article that wirelessly links a plurality of shopping carts ( shopping carts 18 within retail facility) within a retail facility ( retail store in Fig. 1, col 2 line 51) through a wireless local area network ( LAN 88 in Fig. 1) based in the retail

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facility; and enable the carts to exchange information through said network 0( wireless LAN 88 provides a wireless link within retail facility, col 4 line 13 ) .

Regarding claim 21, Jelen discloses a system comprising: a shopping cart ( Shopping cart 18 in Fig. 1 ) ; a processor mounted on said cart ( Processor in terminal device 10 mounted on cart in Fig. 1 ) ; and a storage coupled to said processor ( Memory 106 coupled to processor 32 in fig. 5 ) to wirelessly link a plurality of carts within a retail facility through a local area network based in the retail facility and enable carts to exchange information through said network ( wireless LAN 88 uses a wireless link with shopping carts within retail facility, col 4 line 13 ).

Jelen did not specifically disclose said carts being enabled to communicate with one another , as in claims 1 , 11 and 21 .

However Rebstock discloses a wireless communication unit that can be used in a facility such as a hospital to exchange messages between users(\* Units 12 and 14 in Fig. 1 , function as a two way communication device to exchange messages between devices col 3 lines 6-8 and 11-13)

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the cart disclosed by Jelen by providing the wireless communication device as disclosed by Rebstock that allows a plurality of user transmit and receive messages within a location in order to have the shopping system to be more interactive.

The motivation to do so is to obtain a shopping system wherein data exchange may be accomplished .

Jelen did not specifically disclose a medium for storing instruction to enable the processor-based system as disclosed in claim 11.

However Rebstock discloses a memory to store instruction to enable a processor to execute instructions ( col 4 lines 29-30)Therefore it would have been obvious to one of ordinary skill in the art to modify Jelen by providing the storing means as disclosed by Rebstock for the instructions to be executed by the processor in order for the system to function as expected.

The motivation to do so is to obtain a system wherein the instructions are properly executed.

Regarding claim 2, Jelen discloses wherein wirelessly linking includes providing wireless access to a server by a plurality of carts within a retail facility ( LAN 88 provides wireless linking )

Regarding claim 3, Jelen discloses including providing a processor-based device on a shopping cart to retail customers that wirelessly communicates with said server ( Customer information terminal 10 in Fig. 1).

Regarding claim 7, pushing electronic files to the carts ( i.e. advertisement can be pushed to the carts, col 10 lines 1-2)

Regarding claim 8, Jelen discloses including providing information about the current location of a processor based device associated with a cart ( system

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determines whether the terminal 10 associated with shopping cart 18 has moved to a new location , col 9 line 56-57) .

Regarding claim 9, Jelen discloses including providing information about the cart's location to the server ( cart location in the store as determined by a transceiver 164 9 col 4 lines 43-44)

Regarding claim 10, Jelen discloses including pushing information to the cart depending on the cart's current location (request is a TCP/IP packet addressed to the server which includes the new location and instructions to launch a program on the server which determines whether to transmit –push- a new HTML page to the terminal col 9 lines 62-65) .

Regarding claim 12, storing said information that enable the processor-based system to be accessed wirelessly by a plurality of carts within a retail facility ( LAN 88 provides wireless linking ) .

Regarding claim 17, enable the processor based system to push electronic files to the carts ( col 9 lines 62-65) .

Regarding claim 18, enable the processor-based system to provide information about the current location of a processor-based device associated with a cart ( system determines whether the terminal 10 associated with shopping cart 18 has moved to a new location , col 9 line 56-57) .

Regarding claim 19, enable the processor-based system to determine the cart's location (cart location within the store, col 4 line 44).

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Regarding claim 20, storing instruction which enable the processor-based system to push information to a cart depending on the cart's current location (request is a TCP/IP packet addressed to the server which includes the new location and instructions to launch a program on the server which determines whether to transmit a new HTML page to the terminal, col 9 lines 62-65).

Regarding claim 22, including a housing, said processor mounted in said housing (Housing 12 in Fig. 2).

Regarding claim 23, wherein said housing is adjustably mountable on said cart (Housing 12 is adjustably mounted on handle).

Regarding claim 24, wherein said cart includes a handle (Handle 16) and said housing is mounted on said handle.

Regarding claim 25, further including a wireless transceiver (Transceiver 118 in Fig. 5),

Regarding claim 26; further including an interface to enable network communications (antenna interface in Fig. 5).

Regarding claim 27, including a position locating device coupled to said processor (Infrared receiver coupled to operates as a position locating device, col 9 lines 56-60).

Regarding claim 28, an audio transducer coupled to said terminal device (audio transducer 130 in Fig. 5).

Regarding claim 29, including a card reader coupled to said processor (Reader 22 in Fig. 5).

Regarding claim 30, including a bar code scanner coupled to said processor ( Barcode in Fig. 5, col 2 line 12) .

2. Regarding claims 4 and 13, Jelen and Rebstock do not specifically disclose including enabling customers to activate said device by swiping a card through a slot in said device, as in claim 4; recognize a processor based device on a shopping cart used by a customer in response to a credit card swipe through a slot in said device, as in claim 13.

However Jelen discloses making use of a magnetic card to activate said device ( col 9 line 1), as in claim 4 and 13.

Therefore, it would have been obvious to a person of ordinary skill in the art at the time of the invention than in view of the swiping of a magnetic card as disclosed by Jelen, that a credit card could have been used to enable a customer to activate said terminal device, this with the motivation of obtaining a secure mechanism that would allow the exchange of information residing in a customer portable terminal device that may be readily communicated with a supplier or merchant.

3. Jelen does not specifically disclose including receiving audible communications from said carts , as in claim 5;said processor based system to receive audible communications from said carts, as in claim 14.

However , Rebstock discloses the device having audio capabilities ( speaker 38 in Fig. 3) , as in claims 5 and 14.

Therefore, it would have been obvious to a person of ordinary skill in the art at the time of the invention to modify Jelen by adding the audio capability as disclosed by



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Rebstock , with the motivation of obtaining a retail system that allows users to communicate through audible signals within said facility and obtain a mechanism by which inter exchange data between a retailer and a costumer.

4. Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over US patent No, 6,129,276 (Jelen ) in view of US patent No. 5,877,675 ( Rebstock) and further in view of US patent No. 6,386,450 (Ogasawara).

Jelen and Rebstock do not specifically disclose the system broadcasting files to said carts , as in claim 15.

However , Ogasawara discloses an Electronic shopping system, including the broadcasting of audio files to a customer portable terminal device in a retail facility ( col 5 lines 23-25 and 33-35), as in claim 15.

Therefore, it would have been obvious to a person of ordinary skill in the art at the time of the invention to provide the broadcasting of audio files as disclosed by Ogasawara to a customer terminal device as the ones disclosed by Jelen and Rebstock with the motivation of obtaining a retail system that is able to give directions to a customer on items to purchase based on the customer's current location within the retail facility.

5. Claims 6 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over US patent No, 6,129,276 (Jelen) in view of US patent No. 5,877,675 ( Rebstock) and further in view of US patent No. 5,742,238 ( Fox)

Jelen and Rebstock do not specifically disclose enabling carts to communicate via messages with one another over said network, as in claims 6 and 16.

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However Fox discloses a system for communication between a central controller and items in a factory, including a terminal device (terminal device 12 in Fig. 1) that communicates via text messages with one another over said network (col 4 lines 61-67), as in claims 6 and 16.

Therefore, it would have been obvious to a person of ordinary skill in the art at the time of the invention to provide the text message means as disclosed by Fox to the systems disclosed by Jelen and Rebstock with the motivation of obtaining a retail system that allows users to enter and transmit messages containing short text strings from a device to another device within a network in the retail facility.

### ***Response to Arguments***

6. Applicant's arguments with respect to claims have been considered but are moot in view of the new ground(s) of rejection.

### ***Conclusion***

**7. Any response to this action should be mailed to:**

Commissioner of Patents and Trademarks

Washington, D.C. 20231

**or faxed to:**

(571) 273-8300

(for formal communications intended for entry, for informal or draft communications, please label "PROPOSED" or "DRAFT")

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Hand-delivered responses should be brought to 220 South 20<sup>th</sup> Street, Crystal Plaza Two, Lobby, Room 1B03, Arlington, Va 22202 (Customer Window).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Ricardo Pizarro** whose telephone number is (571) 272-3077. The examiner can normally be reached on Monday-Friday from 9:00 AM to 5:30 PM. .

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, **Hassan Kizou** can be reached on (571) 272-3088

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

December 5, 2005  
Ricardo Pizarro



HASSAN KIZOU  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2600